

OFFICE OF WAGE-HOUR (OWH) FREQUENTLY ASKED QUESTIONS (FAQS)

GENERAL FAQs

- [BANKRUPTCY](#)
- [BREAK PERIODS](#)
- [DISCHARGE OR TERMINATION OF EMPLOYMENT](#)
- [HOURS OF WORK](#)
- [INDEPENDENT CONTRACTOR](#)
- [JURY DUTY](#)
- [OUT OF THE DISTRICT OF COLUMBIA EMPLOYER](#)
- [PAYROLL DEDUCTIONS](#)
- [STANDARDS FOR DAY LABORERS](#)
- [SNOW DAYS/STATES OF EMERGENCY](#)
- [UNDOCUMENTED WORKERS](#)
- [VACATION PAY](#)
- [WAGE CLAIMS](#)
- [WAGE COLLECTION: FACT FINDING PROCESS](#)

EMPLOYER FAQs

- [ACCRUED SICK AND SAFE LEAVE ACT \(ASSLA\)](#)
- [ACCRUAL OF PAID SICK LEAVE](#)
- [EXERCISE OF RIGHTS PROTECTED: RETALIATION PROHIBITED](#)
- [OVERTIME AND RATE OF PAY \(EMPLOYERS\)](#)
- [NOTICE AND POSTING – DC MINIMUM WAGE](#)
- [NOTICE AND POSTING - ASSLA](#)
- [PAYROLL DEDUCTIONS \(EMPLOYERS\)](#)
- [PAYMENT OF SICK LEAVE](#)
- [USE OF PAID SICK LEAVE](#)

GENERAL FAQs

1. **Q. I would like to file a wage claim. What if I do not have all of the information and/or supporting documentation the Office of Wage-Hour needs to process my wage claim?**

A. Provide as much information you have. Once we receive your information and your claim is assigned to a compliance specialist, you will be contacted with regard to next steps and/or if the information provided is insufficient to make these determinations or if permission to use your name during an investigation is required to pursue an investigation.

2. **Q. I haven't worked for this employer for a while. How long do I have to file a complaint?**

A. Employees should file complaints with the Office of Wage-Hour as soon as possible as there is a statute of limitations is 3 years (three-years for willful violations).

3. Q. Does my employer have to give me a paycheck stub?

A. Yes. Every time you receive a salary/pay for hours worked, the employer must furnish each worker on or before each payday a written statement (pay stub) containing the following information:

- The worker's total earnings for each workweek in the pay period;
- The worker's hourly rate and/or piece rate;
- If piece rates are used, the daily units produced by the worker;
- Itemized deductions made from the worker's wages;
- For each workweek in the pay period the hours of employment offered to the worker;
- Hours actually worked by the worker in each workweek of the pay period;
- Beginning and ending dates of the pay period; and
- Employer's name, address and Federal Employer Identification Number (FEIN).

4. Q. Must my employers pay minimum wage?

A. Yes, with certain exemptions. For DC minimum wage information, please see <http://does.dc.gov/service/wage-and-hour-compliance>.

5. Q. Must my employer pay minimum wage if I am a tipped employee?

A. Employees in tipped wage industries may be paid less than the minimum wage as long as the employees make enough in tips to make up the difference. In other words, if the tips received by the tipped employee are insufficient to make up the difference between the minimum tipped rate of \$2.77 and the full minimum wage over a workweek, then the balance must be made up by the employer.

6. Q. Is there a certain amount of time someone has to work before they are considered a permanent, full-time employee?

A. This should be determined by the employer with a new employee at the time of employment.

7. Q. Can an employer pay its employees by direct deposit and make this a condition of employment?

A. Yes.

8. Q. Some people on my job don't speak English and they want to talk to the Office of Wage-Hour. Can you assist them?

A. We Can Help! The DOES Office of Wage-Hour staff is fluent in many languages. We also have available a language interpretive service which can assist with translations of more than 170 languages. Also, please do not hesitate to call the Office of Wage-Hour at 202-671-1800 or stop by at our office located at 4058 Minnesota Avenue, NE Washington, D.C. 20018.

BANKRUPTCY

1. Q. What should I do if my employer has filed for bankruptcy?

A. You need to contact the court where your employer filed for bankruptcy and file a Proof of Claim. Federal courts have exclusive jurisdiction over bankruptcy cases, not state courts. To find out where your employer has filed for bankruptcy the U.S. Courts established the Public Access to Court Electronic Records (PACER), an electronic public access service, that allows access to case and docket information from federal appellate, district, and bankruptcy courts. You will have to sign up for a PACER account. The PACER webpage can be located at www.pacer.gov. Information on bankruptcy filings and filing bankruptcy forms can be found at this link: <http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx>

BREAK PERIODS

1. Q. Are breaks and lunches required by law?

A. No. The FLSA does not require breaks or meal periods be given to workers. However, all employers covered by the FLSA must comply with the Act's break time for nursing mother's provision.

DISCHARGE OR TERMINATION OF EMPLOYMENT

1. Q. If I was unfairly terminated, can the Office of Wage-Hour help me?

A. Yes. If you believe your employment was terminated because you complained about your wages, please be sure to include this information on your claim form.

2. Q. Does my employer have to give me notice when he/she fires me? Do I have to give notice when I quit?

A. No. Notice is not required by either party based on the fact that DC is an "employment at will" state, meaning that an employer or employee may terminate the relationship at any time, without a reason, without cause.

3. Q. When does an employer have to pay final wages to a terminated employee?

A. If you are terminated, you must be paid by the next working day.

4. Q. When I quit my job, does my employer have to pay me within 24 hours?

A. No. Your employer has to pay you by the next regular payday or within seven (7) days, from your resignation date, whichever is earlier.

HOURS OF WORK

1. Q. Does the employer have the right to change an employee's hours of work?

A. Yes. The FLSA has no provisions regarding the scheduling of employees, with the exception of certain child labor provisions. Therefore, an employer may change an

employee's work hours without giving prior notice or obtaining the employee's consent (unless otherwise subject to a prior agreement between the employer and employee or the employee's representative).

INDEPENDENT CONTRACTOR

1. Q. If I am a bona fide independent contractor, may I file a wage claim?

A. No.

JURY DUTY

1. Q. I'm an hourly paid employee. Does my employer have to pay me for jury duty?

A. No.

OUT OF THE DISTRICT OF COLUMBIA EMPLOYER

1. Q. May I file a claim if my employer is located out of the District of Columbia?

A. Yes. You may file a claim provided you worked in the District of Columbia.

PAYROLL DEDUCTIONS

1. Q. Can an employer deduct money from my paycheck if I damage company equipment?

A. No. The law does not permit deductions for damages to company equipment.

2. Q. Can an employer deduct money from my last paycheck if I don't return company property such as an ID tag, cell phone, tools, etc.?

A. No. However, all company property should be returned in order to process your claim quickly.

SNOW DAYS/STATES OF EMERGENCY

1. Q. Are employers required to pay employees when they are unable to work due to the declared state of emergency?

A. No.

STANDARDS FOR DAY LABORERS

1. Q. I am a day laborer, am I still entitled to minimum wage?

A. Day laborers working for any employer in the District of Columbia are afforded the same rights and protections under the D.C. Minimum Wage Act as all other workers. A day laborer must be paid the District of Columbia's minimum wage for all hours worked, regardless of whether he/she is paid by the hour, the day, or at a piece rate. The minimum wage for covered non-exempt employees working in the District of Columbia is \$9.50 per hour. Some states have passed laws that provide even more employee protections, and employers must comply with both the federal and state regulations.

2. Q. I am a day laborer; do I get paid for training and travel?

A. In general, “hours worked” includes all time an employee must be on duty, or at the place of work. Time spent in training, traveling from site to site during the day, and doing repair work must be paid. A worker must be paid for all work performed whether or not the employer approves the work in advance.

3. Q. I am a day laborer; do I receive overtime if I work over 40 hours for one employer?

A. Normally, a worker must receive time and one-half of the regular rate of pay after 40 hours of work in a 7-day workweek.

4. Q. I am a day laborer; is it important to keep records of where and when I worked?

A. It is required that records are kept of all hours worked and of all wages paid, regardless of where the work is performed. It is important that workers keep a record of the employer’s name, address, phone number, the dates they work, the hours that were work each day, and any payments received and date of payment.

UNDOCUMENTED WORKERS

1. Q. If the investigation reveals that there are undocumented workers, what will happen?

A. The Office of Wage-Hour requires that all DC labor laws be enforced without regard to a worker's legal status. Please see the Department of Labor’s Wage Hour Division [Fact Sheet on Undocumented Workers](#).

VACATION PAY

1. Q. Does an employer have to give its employees vacation time off with pay?

A. No.

2. Q. Can you help me with my vacation pay?

A. Yes. If your employer has a vacation policy, which was determined by the employer with an employee at the time of employment, OWH can assist you with your claim regarding vacation pay. Please be sure to include the policy with your supporting documentation.

WAGE CLAIMS

1. Q. What can I do to speed up the claim process?

A. The time it takes to process a claim varies from case to case. However, in order to have your claim processed as quickly as possible, be sure to answer ALL questions on the claim form and include as much information about your claim as possible. In addition, be sure to attach copies of any documentation that supports your claim. Please DO NOT send originals.

2. Q. Can a group of employees jointly file a claim?

A. No. Only individuals may file a wage claim. Each individual who files a wage claim must complete his/her own separate form.

3. Q. If a case representing my claim has already been filed in a court of law, may I file a wage claim?

A. No.

WAGE COLLECTION: FACT FINDING PROCESS

1. Q. What is a fact finding proceeding?

A. It is process in an informal proceeding to resolve disputes between employers and employees regarding payment of wages. The proceedings are not recorded and employers and employees are not sworn in. It gives both the employer and the employee the opportunity to the employer to provide/present evidence to OWH to help prove the claim.

2. Q. Am I required to be represented by an attorney?

A. No.

EMPLOYER FAQs

ACCRUAL OF PAID SICK LEAVE

1. Q. When do employees begin to accrue paid sick leave?

A. Employees begin to accrue paid leave at the beginning of their employment and in accordance with the employer's pay period.

2. Q. How much paid leave does an employee earn?

A. Paid leave provided to an employee is based on the size of the employer's business. Please see the [Accrued Sick and Safe Leave Act – Revised 2014 Poster](#).

3. Q. Does paid leave accrue when employees are on vacation?

A. Please see the [Accrued Sick and Safe Final Rules](#).

4. Q. If an employer offers Paid Time Off (PTO) or vacation days that may be used for any purpose, including sick leave, beyond the minimum accrual requirements in the law, does the employer need to offer additional paid sick leave?

A. Please see the [Accrued Sick and Safe Final Rules](#).

ACCRUED SICK AND SAFE ACT (ASSLA)

1. Q. When did the ASSLA take effect?

A. The ASSLA took effect on May 13, 2008 and the Earned Sick and Safe Leave Amendment Act of 2013 took effect on February 22, 2014.

2. Q. If an employer is based outside of the District of Columbia but has employees who perform work in D.C., do the employees accrue paid sick leave for hours worked in D.C.?

A. Yes. All employees who perform work in the District of Columbia (including on a part-time or temporary basis) accrue paid sick leave in accordance with the employer's established pay period, for those hours worked in the District of Columbia, regardless of where their employer is located.

3. Q. Does the ASSLA cover undocumented employees?

A. Yes.

3. Q. Are independent contractors entitled to paid leave under the ASSLA?

A. No.

EXERCISE OF RIGHTS PROTECTED; RETALIATION PROHIBITED

1. Q. Can an employer retaliate against an employee for using paid sick leave?

A. No.

2. Q. If an employer has an existing paid leave policy, must they comply with the ASSLA?

A. Yes. However, if your policy provides for greater benefits than the minimum requirements of the ASSLA, then your existing paid leave policy will be in compliance with the Law.

3. Q. Are employers required to maintain usage of paid leave records?

A. Yes. Employers must retain records documenting hours worked by employees and paid leave taken for a period of three (3) years.

4. Q. Can an employer fire you for filing a claim under ASSLA?

A. No.

1. Q. If an employee leaves the company and then is rehired within the same year he/she left, does the employee lose his paid leave?

A. No.

NOTICE AND POSTING

1. Q. Are employers required to post a notice informing employees of their rights under the Law?

A. Yes. If you do not have the most up-to-date posters, please inform OWH and we will mail your company the current [Minimum Wage Poster](#) and the [Accrued Sick and Safe Leave Act – Revised 2014 Poster](#).

NOTICE AND POSTING REQUIREMENTS – DC MINIMUM WAGE

1. Q. Are employers required to post a notice informing employees of their rights under the Law regarding the DC Minimum Wage?

A. Yes. If you do not have the most up-to-date DC Minimum Wage Poster, please inform OWH and we will mail your company the current [DC Minimum Wage Poster \(English\)/DC Minimum Wage Poster \(Spanish\)](#).

OVERTIME and RATE OF PAY (EMPLOYERS)

1. Q. As an employer, can I pay someone a salary and not have to worry about overtime pay?

A. No. Just putting an employee on a salary does not necessarily exempt that employee from overtime pay.

2. Q. As an employer, do I pay my employees time and one-half if they work on a holiday or on the weekend?

A. No. However, this is only enforceable unless your policy states otherwise.

3. Q. What are the legal holidays that an employer has to observe?

A. None.

4. Q. When do I have to pay overtime?

A. Overtime is paid at the rate of time and one half after forty (40) hours of actual work in a seven-day workweek, with the exception of certain salaried employees who meet the definition of an executive, administrative, or professional.

5. Q. Does a part-time employee have to be paid overtime?

A. Yes.

6. Q. As an employer, can I require my employees to work overtime?

A. Yes. However you can only require your employees to work overtime as long as appropriate overtime wages are paid.

7. Q. If an employee wants to work overtime (in excess of 40 hours in the workweek) and will accept straight time, can the employee waive the right to overtime pay?

A. No.

8. Q. How do I compute the overtime rate for a worker who has two (2) or more job titles with different hourly rates?

A. The overtime rate is calculated by using the weighted averaged method. The total gross wages are divided by the total number of hours worked to obtain the average hourly rate. The average hourly rate is then divided in half to determine the additional premium (half-time) rate due the employee.

9. Q. Am I allowed to reduce an employee's rate of pay?

A. Yes. You can reduce the rate of pay as long as you give the employee advance notice of the reduction. The reduction cannot be made retroactively for any time worked. The reduction cannot bring the rate of pay below minimum wage. Also, you are not required to reduce the rate as a form or measure of retaliation.

PAYROLL DEDUCTIONS (EMPLOYERS)

1. Q. Am I required to give employees a statement showing deductions?

A. Yes. An employer is required to include itemized deductions made from the worker's wages on every written pay statement (pay stub).

2. Q. May I make a deduction from an employee's wages for shortages or breakage?

A. No.

3. Q. Do I have to pay severance pay?

A. No. However, this is only enforceable unless your policy provides for it.

PAYMENT OF SICK LEAVE

1. Q. Can employees waive their rights to paid leave in lieu of a pay raise?

A. No.

2. Q. Can employers offer their employees the option of "cashing out" unused paid leave under the Accrued Sick and Safe Leave Act?

A. No.

USE OF PAID SICK LEAVE

1. Q. When can employees begin to use paid sick leave?

A. Employees can access their paid leave after they have completed 90 days of service with their employer. The normal work day is a traditional 8-hour work day; however, in accordance with Chapter 32, section 3299, a Day is defined as “means the length of the employee’s customary work day or work shift.”

2. Q. Do employees lose accrued paid leave hours at the end of the year?

A. No. However, an employee cannot use in one (1) year more than the maximum annual hours accrued.

3. Q. Are employers required to pay employees for unused paid sick leave when the employees quit, retire, or are fired?

A. No.

4. Q. Who qualifies as a Family Member under the ASSLA?

A. Please see the [Accrued Sick and Safe Final Rules](#).

5. Q. Is it reasonable to require employees to provide advance notification for every use of paid sick leave?

A. Yes. The employee **must** request use of paid leave in advance unless the paid leave is not foreseeable or an emergency prevents the employee from making prior notification to the employer.

6. Q. Is it reasonable to require employees to provide a doctor’s note for every use of paid leave?

A. An employer may require that paid leave for three (3) or more consecutive days be supported by reasonable certification. Reasonable certification may include: a signed document from a health care provider, a police report, a court order, and/or a signed statement from a victim /witness advocate. Documentation should be provided to the employer upon the employee’s return to work.

7. Q. Can an employer dictate how employees to use paid leave in one hour increments?

A. Employees may use paid leave in accordance with the employer’s policy which should be determined by the employer with an employee at the time of employment.

8. Q. Can an employer require its employees to take off the full day to use paid leave?

A. Employees may use paid leave in accordance with the employer’s policy which should be determined by the employer with an employee at the time of employment. In most employment

situations, a requirement that an employee take off more hours than requested would not be considered reasonable.